

ASSEMBLY, No. 2107

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman LISA SWAIN

District 38 (Bergen and Passaic)

SYNOPSIS

Clarifies procedures concerning collection of child support on behalf of child over age 19 when court has ordered such support.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning child support and amending P.L.2015, c.223.

2

3 **BE IT ENACTED** *by the Senate and General Assembly of the State*
4 *of New Jersey:*

5

6 1. Section 1 of P.L.2015, c.223 (C.2A:17-56.67) is amended to
7 read as follows:

8 1. a. Unless otherwise provided in a court order **【or】**, judgment,
9 or preexisting agreement, the obligation to pay current child support
10 or provide medical support, or both for a child shall terminate by
11 operation of law without order by the court on the date that a child
12 marries, dies, or enters the military service. In addition, a child
13 support obligation shall terminate by operation of law without order
14 by the court when a child reaches 19 years of age unless:

15 (1) another age for the termination of the obligation to pay child
16 support, which shall not extend beyond the date the child reaches 23
17 years of age, is specified in a court order or judgment;

18 (2) the child suffers from a severe mental or physical incapacity
19 that causes the child to be financially dependent on a parent, in
20 consideration of the factors set forth in N.J.S.2A:34-23, and the
21 continuation of the obligation to pay support for that child is
22 specified in a court order or judgment;

23 (3) a written request seeking the continuation of child support
24 services is submitted to the court by a custodial parent prior to the
25 child reaching the age of 19 in accordance with subsection b. of this
26 section and such request is approved by the court; or

27 **【(3)】** (4) the child receiving support is in an out-of-home
28 placement through the Division of Child Protection and Permanency
29 in the Department of Children and Families.

30 b. (1) In response to a notice of proposed termination of child
31 support issued in accordance with subsection d. of this section, a
32 custodial parent may submit a written request, on a form and within
33 timeframes promulgated by the Administrative Office of the Courts,
34 with supporting documentation to the court, including a projected
35 future date when support will terminate, seeking the continuation of
36 child support services beyond the date the child reaches 19 years of
37 age in the following circumstances:

38 (a) the child is still enrolled in high school or other secondary
39 educational program;

40 (b) the child is a student in a post-secondary education program
41 and is enrolled for the number of hours or courses the school
42 considers to be full-time attendance during some part of **【each of any**
43 **five calendar months of】** the academic year; or

44 (c) the child has a physical or mental disability, as determined by
45 a federal or State government agency, that existed prior to the child
46 reaching the age of 19 and requires continued child support.

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (2) A custodial parent may file a motion with the court seeking to
2 extend the obligation to pay child support beyond the date the child
3 reaches 19 years of age due to exceptional circumstances as may be
4 approved by the court.

5 c. **【If the court finds that】** The Probation Division of the
6 Superior Court shall review the request form and supporting
7 documentation submitted by the custodial parent **【establish sufficient**
8 **proof】** and shall make a recommendation to the court as to whether
9 to continue the child support beyond the date a child reaches 19 years
10 of age pursuant to paragraph (1) of subsection b. of this section. If
11 sufficient proof has been provided, the child support obligation shall
12 not be terminated by operation of law when the child reaches the age
13 of 19, and the court shall issue an order establishing the
14 **【prospective】** date of child support termination. A copy of the court
15 order shall be provided to both parents of the child. A parent
16 responsible for paying child support who disagrees with the court's
17 decision to continue child support beyond the date the child reaches
18 19 years of age or who otherwise desires to modify or terminate the
19 child support obligation may, at any time, file a motion with the court
20 seeking relief from that obligation.

21 d. For child support orders that are administered by the
22 Probation Division of the Superior Court, the Probation Division and
23 the State IV-D agency shall cooperatively provide both parents with
24 at least two written notices of a proposed termination of child
25 support, which shall include information and the request form to
26 facilitate the continuation of child support beyond the date the child
27 reaches 19 years of age. The first notice shall be sent to the last
28 known address of the parties at least 180 days prior to the proposed
29 termination date, and the second notice shall be sent to the last known
30 address of the parties at least 90 days prior to the proposed
31 termination date. The second notice shall not be required whenever
32 a custodial parent's request for continuation is pending or a new date
33 of child support termination has been established. To the extent
34 feasible, the Probation Division and the State IV-D agency shall
35 cooperatively provide additional notice to the parents by text
36 message, telephone message, or other electronic means. In addition,
37 all orders and judgments that include a child support obligation
38 entered after the effective date of P.L.2015, c.223 (C.2A:17-56.67 et
39 seq.) shall contain information regarding the termination of child
40 support obligations as provided in P.L.2015, c.223 (C.2A:17-56.67
41 et seq.). Failure of a party to provide a current mailing address shall
42 not prevent the termination of the obligation.

43 e. **【Notwithstanding the provisions of this section,】** Except for
44 child support services provided pursuant to paragraph (2) of
45 subsection a. of this section for a child who suffers from a severe
46 mental or physical incapacity that causes the child to be financially
47 dependent on a parent, the obligation to pay child support shall

1 terminate by operation of law when a child reaches 23 years of age.
2 The Probation Division of the Superior Court and the State IV-D
3 agency shall cooperatively provide both parents with a written notice
4 of termination sent to the last known address of the parties at least 90
5 days prior to the termination date and, to the extent feasible, the
6 Probation Division and the State IV-D agency shall cooperatively
7 provide additional notice to the parents by text message, telephone
8 message, or other electronic means.

9 f. Nothing in this section shall be construed to:

10 (1) prevent a child who is beyond 23 years of age from seeking a
11 court order requiring the payment of other forms of financial
12 maintenance or reimbursement from a parent as authorized by law to
13 the extent that such financial maintenance or reimbursement is not
14 payable or enforceable as child support as defined in section 3 of
15 P.L.1998, c.1 (C.2A:17-56.52); **[or]**

16 (2) prevent the court, upon application of a parent or child, from
17 converting, due to exceptional circumstances including, but not
18 limited to, a mental or physical disability, a child support obligation
19 to another form of financial maintenance for a child who has reached
20 the age of 23;

21 (3) prevent the court, upon application of a parent or child, from
22 ordering the continuation of the child support obligation or the
23 continuation of Title IV-D services, or both, for a child with a severe
24 physical or mental incapacity that causes the child to be financially
25 dependent upon a parent and consistent with paragraph (2) of
26 subsection a. of this section. The parental obligation to provide
27 support for the child shall continue until the court finds that the child
28 is relieved of the incapacity or is no longer financially dependent on
29 the parent. In assessing the financial obligation of the parent, the
30 court shall consider the factors set forth in N.J.S.2A:34-23; or

31 (4) require the Probation Division of the Superior Court to
32 provide any establishment, monitoring, or enforcement of financial
33 maintenance or reimbursement orders.

34 (cf: P.L.2015, c.223, s.1)

35
36 2. Section 5 of P.L.2015, c.223 (C.2A:17-56.71) is amended to
37 read as follows:

38 5. Nothing in P.L.2015, c.223 (C.2A:17-56.67 et seq.) shall:

39 a. require or relieve a parent from paying support or other costs
40 while a child is enrolled full-time in a post-secondary education
41 program;

42 b. prohibit the State IV-D agency or the Probation Division of
43 the Superior Court from seeking to close a Title IV-D case or
44 terminate its supervision of a child support order in accordance with
45 procedures as provided under State or federal law and regulations or
46 the Rules of Court;

47 c. prohibit any party from filing an application with the court
48 seeking the termination of an order to pay child support for any cause

1 other than those provided under P.L.2015, c.223 (C.2A:17-56.67 et
2 seq.); **【or】**

3 d. prohibit the parties from consenting to a specific termination
4 date for child support that does not exceed the date a child reaches
5 23 years of age, or to any other financial arrangements for a child that
6 are not designated as child support, subject to the approval of the
7 court;

8 e. prohibit the parties from consenting to any other financial
9 arrangements for a non-disabled child 23 years of age or older that
10 are not enforceable by the State IV-D agency or the Probation
11 Division of the Superior Court; or

12 f. prohibit the State IV-D agency or the Probation Division of
13 the Superior Court from:

14 (1) providing full Title IV-D child support services for the
15 duration of the obligation to pay child support or provide medical
16 support or both for a child under the circumstances set forth in
17 subsection a. or b. of section 1 of P.L.2015, c.223 (C.2A:17-56.67);
18 or

19 (2) requiring the completion of a Title IV-D application in every
20 case where a party is seeking full Title IV-D child support services
21 and no application is on file, or an application is not required under
22 law.

23 (cf: P.L.2015, c.223, s.5)

24
25 3. This act shall take effect on the first day of the 11th month
26 following enactment and shall be applicable to all child support
27 orders issued prior to, on, or after the effective date. The Department
28 of Human Services, in conjunction with the Administrative Office of
29 the Courts, may take such anticipatory administrative action in
30 advance as may be necessary for the implementation of this act.

31 32 33 STATEMENT

34
35 This bill would clarify certain procedures concerning the
36 collection of child support on behalf of a child over the age of 19
37 when such support has been ordered by the court.

38 Under section 1 of P.L.2015, c.223 (C.2A:17-56.67), when a child
39 reaches age 19, the obligation to pay child support terminates by
40 operation of law, without a court order, unless otherwise provided in
41 a court order or judgment. Prior to the enactment, which took effect
42 February 1, 2017, there was no set termination date for child support
43 and payors were required to obtain a court order authorizing such
44 termination.

45 Section 1 of P.L.2015, c.223 (C.2A:17-56.67) provides that child
46 support will not terminate by operation of law when the child reaches
47 age 19 if:

1 (1) another age for termination, which may not extend beyond the
2 date the child reaches age 23, is specified in a court order; or

3 (2) the child is in an out-of-home placement through the Division
4 of Child Protection and Permanency in the Department of Children
5 and Families.

6 The statute provides that the court may order child support to
7 continue after age 19 if:

8 (a) the child is still enrolled in high school or in another
9 secondary educational program;

10 (b) the child is enrolled in a post-secondary education program;
11 or

12 (c) the child has a physical or mental disability, as determined by
13 a federal or State government agency, that existed prior to age 19,
14 and requires continued child support.

15 In addition, the court may order child support to continue beyond
16 age 19 if the court finds “exceptional circumstances as may be
17 approved by the court.”

18 Section 1 of P.L.2015, c.223 (C.2A:17-56.67) also provides that
19 nothing in the statute shall prevent the court from converting, due to
20 exceptional circumstances including, but not limited to, a mental or
21 physical disability, a child support obligation to another form of
22 financial maintenance for a child who has reached the age of 23.

23 The bill would amend section 1 of P.L.2015, c.223 (C.2A:17-
24 56.67) to add to the age 19 child support termination provision a
25 specific exception for a child with a severe incapacity. Under the
26 bill, child support would not terminate at age 19 if the child suffers
27 from a severe mental or physical incapacity that causes the child to
28 be financially dependent on a parent and the continuation of the
29 obligation to pay support for that child is specified in a court order
30 or judgment.

31 In addition, the bill specifies that where a parent submits a request
32 to the court seeking continuation of child support beyond the child
33 reaching age 19, the Probation Division of the Superior Court would
34 review the request and make a recommendation to the court. If
35 sufficient proof has been provided, the child support obligation
36 would not be terminated by operation of law when the child reaches
37 age 19, and the court would issue an order establishing the date of
38 child support termination.

39 The bill also specifies that child support would not terminate by
40 operation of law when a child reaches age 23 if the child suffers from
41 a severe mental or physical incapacity, or has a physical or mental
42 disability that existed prior to reaching age 19 and requires continued
43 child support.

44 The bill additionally specifies that nothing in section 1 of
45 P.L.2015, c.223 (C.2A:17-56.67) shall be construed to prevent the
46 court, upon application of a parent or child, from ordering the
47 continuation of the child support obligation or the continuation of
48 Title IV-D services, or both, for a child with a severe physical or

1 mental incapacity as defined in N.J.S.2A:34-23 and consistent with
2 paragraph (2) of subsection a. of C.2A:17-56.67 concerning a child
3 who suffers from a severe mental or physical incapacity. The
4 parental obligation to provide support for the child would continue
5 until the court finds that the child is relieved of the incapacity or is
6 no longer financially dependent on the parent. In assessing the
7 financial obligation of the parent, the court would be required to
8 consider the factors set forth in N.J.S.2A:34-23.

9 The bill also provides that nothing in section 1 of P.L.2015, c.223
10 (C.2A:17-56.67) shall be construed to require the Probation Division
11 of the Superior Court to provide any establishment, monitoring, or
12 enforcement of financial maintenance or reimbursement orders.

13 The bill would amend section 5 of P.L.2015, c.223 (C.2A:17-
14 56.71) to provide that nothing in the statute shall:

15 (1) prohibit the parties from consenting to any other financial
16 arrangements for a non-disabled child 23 years of age or older that
17 are not enforceable by the State IV-D agency or the Probation
18 Division of the Superior Court; or

19 (2) prohibit the State IV-D agency or the Probation Division of
20 the Superior Court from:

21 (a) providing full Title IV-D child support services for the
22 duration of the obligation to pay child support or provide medical
23 support, or both, for a child under the circumstances set forth in
24 subsection a. or b. of section 1 of P.L.2015, c.223 (C.2A:17-56.67);
25 or

26 (b) requiring the completion of a Title IV-D application in every
27 case where a party is seeking full Title IV-D child support services
28 and no application is on file, or an application is not required under
29 law.